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## **The Jackson-Vanik Amendment: A Survey**

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# The Jackson-Vanik Amendment: A Survey

## Summary

The enactment of the so-called Jackson-Vanik amendment as part of the Trade Act of 1974 was directly a U.S. reaction to the severe restrictions the Soviet Union had placed in late 1972 on the emigration of its citizens, but was expanded in its scope to apply to all so-called “nonmarket economy” (NME) countries. The amendment, in effect, requires compliance with its specific free-emigration criteria as a key condition for the restoration of certain benefits theretofore denied to NME countries in their economic relations with the United States. These benefits — access to nondiscriminatory (most-favored-nation; normal-trade-relations) treatment in trade; access to U.S. government financial facilities; ability to conclude a trade agreement with the United States) — may be extended to an NME country subject to the amendment only if the President determines that the country is not in violation of (i.e., is in full compliance with) the free-emigration criteria of the amendment, or if he waives, under specified conditions, the requirement of full compliance with the criteria. Such determinations or waivers must be renewed periodically.

Congressional involvement in the implementation of the provision is limited. The initial application, periodic renewals, or subsequent changes (other than termination) of the requirements of either type of compliance with the Jackson-Vanik amendment freedom-of-emigration requirements take place, under existing legislation, by Executive action. Such action does not require congressional approval; however, Congress may disapprove an initial determination of “no violation” and, annually, its extension, as well as annual extensions of a waiver, at the time of such renewals, by the enactment of joint resolutions of disapproval, for which a special fast-track procedure is provided. Although frequently initiated in the past, congressional attempts to disapprove waiver renewals have invariably been unsuccessful. Action disapproving an initial “no violation” determination or its renewal has never been attempted. Under these provisions, since 1975 waivers have been granted to 25 countries, most of which have been subsequently determined to be in full compliance, but still subject to the amendment. The application of the amendment to several of these has later, by law or other circumstance, been terminated.

In consequence, there are, at present, still 12 countries subject to the amendment, three of which (Belarus, Turkmenistan, and Vietnam) are under the waiver provision and seven (Azerbaijan, Kazakhstan, Moldova, Russia, Tajikistan, Ukraine, and Uzbekistan) under a determination of “no violation”; two countries (Cuba and North Korea) are still not in either form of compliance (and, hence, continue to be denied the benefits contingent on such compliance).

There are several possible actions in which the Congress can become involved legislatively with respect to the application of the Jackson-Vanik amendment: adoption of a joint resolution disapproving a relevant Executive action (renewal of a waiver, or a determination of “no-violation” or its renewal), specific termination of the application of the Amendment to one or more countries, mostly by terminating the application of the Amendment as part of the legislation authorizing the extension of permanent NTR treatment to a country, and repeal of the Amendment.

## **Contents**

Background .....	1
Provisions of the Amendment .....	2
Congressional Role .....	7
Application and Implementation of the Amendment .....	9
Practical Consequences .....	14
Possible Congressional Action .....	15

# The Jackson-Vanik Amendment: A Survey

## Background

The enactment of the so-called Jackson-Vanik (“freedom-of-emigration”) amendment (Section 402) of the Trade Act of 1974 (P.L. 93-618; January 3, 1975) was a U.S. reaction to the Soviet Union’s highly restrictive emigration policy of the time, but particularly to the assessment, begun in August 1972, of exorbitant “education reimbursement fees” (also referred to as “diploma taxes”) on its citizens wishing to emigrate to nonsocialist countries. Although this restrictive policy applied to all such prospective emigrants, it affected in practice primarily Soviet Jews wanting to emigrate to Israel or the United States. These fees, which could be as high as the equivalent of several tens of thousands of dollars, were assessed as a reimbursement to the Soviet state of its expenditures for the free higher education that the prospective emigrant had received and, because of his departure, would no longer use for the benefit of the Soviet society. The fees were geared to the level of education received (a factor of increase) and the length of time elapsed since obtaining the education, that is, the time during which the Soviet society had benefitted from that education (a factor of decrease).

The institution of these fees took place at a time when the United States and the Soviet Union already had negotiated several bilateral economic agreements and were in the process of negotiating others. Among the latter was a trade agreement, including a reciprocal grant of “most-favored-nation” (MFN; nondiscriminatory) tariff treatment. Although included in a specific bilateral agreement, the restoration of the MFN status to the Soviet Union (or to any other communist country whose MFN tariff status had been suspended<sup>1</sup>) could not take place without authorizing legislation, which was then being considered by Congress.

To counteract primarily the Soviet Union’s restrictive emigration policy (but broadened to apply also to other communist countries), legislation sponsored principally by Senator Henry M. Jackson and Representative Charles A. Vanik and cosponsored by a large number of Members of both houses, was introduced in early October 1972 as a free-standing measure in the House and as an amendment to the East-West Trade Relations Act in the Senate. The legislation would condition the restoration of most-favored-nation status to nonmarket economy (NME) countries

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<sup>1</sup> As provided by Section 5 of the Reciprocal Trade Agreements Act of 1951 (P.L. 82-50), the President suspended the MFN tariff treatment (i.e., application of tariff concessions granted by the United States to any trading partner in a multilateral or bilateral trade agreement, but no other aspects of the MFN policy then in effect) of all then communist countries except Yugoslavia. Prior to the enactment of the Jackson-Vanik amendment, Poland’s nondiscriminatory tariff status had been restored by presidential action in 1960, and Cuba’s suspended in 1962.

(including the Soviet Union), their access to U.S. financial facilities, and their ability to conclude a trade agreement with the United States on their compliance with the free-emigration criteria of the proposed legislation. Notwithstanding the concurrent consideration of this adverse legislation, a trade agreement providing for reciprocal most-favored-nation treatment was signed with the Soviet Union in mid-October 1972.

Neither the East-West Trade Relations Act nor the free-standing freedom-of-emigration legislation was enacted in 1972; however, virtually identical language was included the following year, in the next Congress, as an original provision<sup>2</sup> in the Trade Reform Act of 1973 (eventually enacted as the Trade Act of 1974) and somewhat expanded during the legislative process, even though the Soviet Union already in late 1972 had ceased assessing the fees. The Soviet Union objected to the provision, considering it an intrusion into its domestic policy and, after its enactment in January 1975, declined to have the restoration of its access to nondiscriminatory tariff status as provided for in the agreement and other benefits subjected to its conditions.

## Provisions of the Amendment

The Jackson-Vanik amendment (Section 402 of the Trade Act of 1974, as amended; 19 U.S.C. 2432), in effect, sets a **policy of free emigration** as a condition and key element of the restoration<sup>3</sup> of certain specific economic benefits to a “nonmarket economy” (NME) country and of their subsequent continuation in force, under the relevant provisions of Title IV of the Act. These benefits are: the country’s nondiscriminatory (most-favored-nation<sup>4</sup>; MFN) tariff status in its trade with the United States; its access to U.S. government financial facilities (export credits, export

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<sup>2</sup> The provision, however, has continued to be referred to as the Jackson-Vanik “amendment.”

<sup>3</sup> The suspensions of the nondiscriminatory tariff status of “communist countries,” based on the 1951 Act, in effect at the time of the enactment of the Trade Act of 1974 and contained then in General Headnote 3(d) of the Tariff Schedules of the United States (now General Headnote 3(b) of the Harmonized Tariff Schedule of the United States - HTSUS; 19 U.S.C. 1202), have been specifically continued in force by Section 401 of the Trade Act (19 U.S.C. 2431). The nondiscriminatory (“most-favored-nation”) tariff status suspended under the 1951 legislation was at the time applied unconditionally to all U.S. trading partners under the provisions of Section 350(a)(2) of the Tariff Act of 1930 as added by the Reciprocal Trade Agreements Act of 1934 (P.L. 73-316). That law authorized the President to enter into trade-barrier-reducing agreements with foreign countries and apply the resulting concessions to all trading partners. The equivalent present MFN-granting statute is Section 126 of the Trade Act of 1974 (19 U.S.C. 2136).

<sup>4</sup> Although the term “most favored nation” has been replaced by law (Section 5003, Internal Revenue Restructuring and Reform Act of 1998; 19 U.S.C. 2481 note) in existing and future U.S. statutes with that of “normal trade relations (NTR)” or another appropriate term, it is still used in this report for reasons of historical continuity and because of its continued universal use in international trade relations and agreements, including those to which the United States is a party. Instead of either term, the term “nondiscriminatory” is often used as an equivalent substitute.

credit guarantees, and investment guarantees)<sup>5</sup>; and its ability to conclude a bilateral trade agreement with the United States (on the basis of which the nondiscriminatory status is granted).

Neither the amendment nor any other statute in effect at the time of its enactment contained a **definition of a “nonmarket economy country”**<sup>6</sup> or provided a specific list or even a functional description of the affected countries, which could be used to determine precisely the country applicability of Title IV as a whole (containing, in addition to the Jackson-Vanik amendment, other provisions affecting NME countries). As reflected in the implementation of certain provisions of Title IV in subsequent practice, an NME country has generally been considered to be any communist country.

A special case was Yugoslavia. Although initially included among the countries subject to certain reporting requirements of Title IV, applicable to trade with NME countries,<sup>7</sup> it was dropped for various economic as well as political reasons from that category in early 1981 at the suggestion of the U.S. Trade Representative and after consultation with the appropriate congressional committees. This action was also supported by the opinion of many analysts that the country was not appropriately classified as an NME country.<sup>8</sup>

Somewhat better defined is the **country applicability** of the amendment itself in its role as a means for the restoration of the covered benefits. In its subsection (e), the amendment specifically exempts from its purview “any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States<sup>9</sup> on the date of the enactment of [the Trade Act of 1974]”; that is, any country to which nondiscriminatory tariff treatment was being accorded by the United States on January 3, 1975. Among the relevant countries are Poland and Yugoslavia.

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<sup>5</sup> Access to such facilities is also subject to other restrictions, which, however, may be — and, as needed, have been — waived by the President.

<sup>6</sup> Formal, statutory criteria for defining a “nonmarket economy country” (which could, in principle, be used to determine this specific aspect of the applicability of the Jackson-Vanik amendment) were not enacted until the Omnibus Trade and Competitiveness Act of 1988 (Section 1316(b), amending Section 771 of the Tariff Act of 1930; 19 U.S.C. 1677, item (18)) in the context of antidumping action; a virtually identical practical definition by regulation has been in use since 1984 in countervailing action against subsidized imports.

<sup>7</sup> Sections 410 (East-West Trade Statistics Monitoring System) and 411 (East-West Foreign Trade Board) of the Trade Act of 1974 (respectively 19 U.S.C. 2440 and 2441), both subsequently repealed (respectively, by Section 17 of the Miscellaneous Trade and Technical Corrections Act of 1996; P.L. 104-295, and Section 1001(a)(4) of the Miscellaneous Trade and Technical Corrections Act of 1999; P.L. 106-36).

<sup>8</sup> U.S. International Trade Commission. *27<sup>th</sup> quarterly report to the Congress and the Trade Policy Committee on trade between the United States and the nonmarket economy countries during April-June 1981*. USITC Publication 1188. September 1981. p. 1.

<sup>9</sup> Namely, rates resulting from U.S. tariff concessions accorded to any country in various trade agreements and applied to trading partners in a nondiscriminatory manner.

Moreover, the applicability of the amendment to individual countries is operationally tied to Section 401 of the Trade Act (19 U.S.C. 2431). This section provides for continued denial of the nondiscriminatory treatment of countries subject to Section 5 of the 1951 Act, but is modified by subsection (e) of the Jackson-Vanik amendment and, together with it, indirectly provides a functional definition of the countries to which the amendment applies (without, however, specifically defining their NME status). In effect, Section 401 requires that the suspensions of nondiscriminatory tariff treatment of individual countries under the 1951 Act continue in force, unless revoked under the relevant provisions of Title IV of the Trade Act, including its Section 402. It provides that

[e]xcept as otherwise provided in this title [i.e., Title IV of the Trade Act], the President shall continue to deny nondiscriminatory treatment to the products of any country, the products of which were not eligible for the rates set forth in rate column number 1 of the Tariff Schedules of the United States on the date of the enactment of this Act.

In explaining the provisions of Section 401, the relevant Senate report contains a list naming (in a somewhat simplified form) individually the countries and areas which were at the time of the enactment of that Act being denied nondiscriminatory status<sup>10</sup>, and explains further that that means all then-communist countries or areas except Poland and Yugoslavia (exempted under Section 402 (e), because both, at the time, already had most-favored-nation status).<sup>11</sup> The official list of countries denied such status and, hence, ineligible for concessional duty rates in column 1, was contained at the time in General Headnote 3(e) of the Tariff Schedules of the United States (TSUS) under the title *Products of Communist Countries*. The provision has continued to apply to the same countries or their successors (except those that have since been removed from its applicability temporarily under the provisions of Title IV, or permanently by specific legislation, or in some other way<sup>12</sup>), although most of them are no longer communist.

The list was a consolidation of individual country suspensions of MFN treatment put into effect in a series of presidential documents promulgated in 1951 and 1952 under the authority of Section 5 of the Trade Agreements Extension Act of 1951 (P.L. 82-50; 65 Stat. 73), and still reflected the immediate post-WWII changes of international borders before these were definitively settled. Although the names of several countries were already outdated at the time, their list became part of the

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<sup>10</sup> Albania, Bulgaria, China, Cuba, Czechoslovakia, East Germany, Estonia, Hungary, those parts of Indochina (Cambodia, Laos, or Vietnam) under communist control or domination, North Korea, the Kurile Islands, Latvia, Lithuania, Outer Mongolia, Romania, Southern Sakhalin, Tanna Tuva, Tibet, and the USSR. The list initially included also “Poland and area under Polish domination or control” (see also footnote 1).

<sup>11</sup> U.S. Congress. Senate. Committee on Finance. *Trade Reform Act of 1974; report ... on H.R. 10710*. 93<sup>d</sup> Congress. 2<sup>d</sup> Session. (S.Rept. 93-1298). November 26, 1974. Washington, U.S. Govt. Print. Off., 1974. p. 201. Yugoslavia’s MFN status was never affected by the 1951 Act suspensions, whereas Poland’s, which had been suspended under that Act, was restored in 1960.

<sup>12</sup> See pp. 9-14.

U.S. tariff law after their consolidation and incorporation without changes of names as General Headnote 3(e) (later renumbered as 3(d)) into the totally revised and restructured basic tariff document, the TSUS (enacted by Section 101 of the Tariff Classification Act of 1962 (P.L. 87-456; 76 Stat.72), effective January 1, 1963). They remained unchanged<sup>13</sup> until January 1, 1989, when the tariff schedules were again radically restructured in the form of the Harmonized Tariff Schedule of the United States (HTSUS) (enacted by Section 1204 of the Omnibus Trade and Competitiveness Act of 1988; P.L. 100-418; 19 U.S.C. 3004).

In the HTSUS, the country list has been simplified to conform to the current names of the countries involved, including a belated change of its applicability from the communist controlled areas of Cambodia (in the HTSUS called Kampuchea), Laos, and Vietnam to the entire areas of those countries. The provision also became General note 3(b) with its title changed to *Rates of Duty Column 2* (i.e., duty rates applicable to countries without the nondiscriminatory tariff status).

Although the introductory sentence of the Jackson-Vanik amendment mentions “the continued dedication of the United States to fundamental human rights,” its **operative provisions** condition the restoration of the access of an NME country to the covered benefits solely on the country’s freedom-of-emigration policy.

The **amendment prohibits** the restoration of nondiscriminatory status and access to U.S. government financial facilities to an NME country denied such benefits, and disallows the conclusion of a commercial agreement with it, if that country

- (1) denies its citizens the right or opportunity to emigrate;
- (2) imposes a more than nominal tax on emigration or on documents required for emigration; or
- (3) imposes a more than nominal tax, fee, or any other charge on any citizen because of his desire to emigrate to the country of his choice.<sup>14</sup>

The amendment also provides that its prohibitions apply to an NME country “during the period beginning with the date on which the President determines that

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<sup>13</sup> Being a current list of countries *denied the nondiscriminatory status* (rather than a list of countries *subject to the Jackson-Vanik amendment*), the TSUS note (and later the comparable HTSUS note) has at no time contained the names of the countries whose nondiscriminatory status had meanwhile been restored conditionally under the provisions of Title IV, but to which the amendment has continued to apply.

<sup>14</sup> In identical operative language, Section 409 of the Trade Act of 1974 deals with temporary restoration of benefits covered by the Jackson-Vanik amendment, in the context of denial of the right to emigrate to join a very close relative in the United States; and Section 403 denies the restoration of the same benefits in the context of an NME’s cooperation with the United States in accounting for, repatriation, or return of remains of U.S. personnel missing in action in Southeast Asia. Neither section applies to an NME country to which NTR treatment applies; and Section 409 does not apply to an NME country with regard to which a waiver under Section 402 is in effect.

such country [engages in any of the listed freedom-of-emigration restricting practices] and ending on the date on which the President determines that such country is not in violation of [the amendment's prohibitions]." In actual practice, however, there have been no formal presidential determinations of either the onset or the cessation of the application of the prohibition with respect to any country. Determinations of cessation of violation, however, can be considered as being at least constructively — if not specifically — made by the President's submission to Congress of the requisite waivers and their renewals, or of initial and subsequent semiannual no-violation reports (see next four paragraphs).

The denial of an NME country's **access to the benefits** to which the amendment applies may be suspended temporarily and such suspension subsequently maintained in effect if the President initially, and then semiannually (by June 30 and December 31), determines and in detail reports to Congress that the NME country in question is not in violation of the prohibition of emigration-restricting practices. Alternatively, the President may initially and then in mid-year (by June 3) annually waive full compliance with the free-emigration criteria if he reports to Congress (1) that he has determined that the waivers will henceforth substantially promote the free-emigration objectives of the amendment and (2) that he has received assurances that the emigration practices of the country will lead substantially to the achievement of the amendment's objectives.<sup>15</sup>

The Executive function and authority to make *reports and determinations of "no violation"* (i.e., of full compliance) is open-ended and can be used and implemented initially with respect to any country at any time without the need for congressional approval. It is, however, subject to a possible disapproval through the enactment of a joint resolution. Once initially made, such reports and determinations must be renewed semiannually (by June 30 and December 31) with respect to each country for which they are to be continued in force. Like the initial determination, the year-end (but not the mid-year) determination is also subject to disapproval by joint resolution. The enactment of such disapproval resolution precludes the initial or subsequent extension of nondiscriminatory tariff treatment to the country (or countries) in question.

The *waiver procedure* is somewhat different. The overall waiver authority, which can be used initially with respect to any individual country at any time (and the initial use of which is not subject to disapproval by joint resolution), was granted to the President (with effect on January 3, 1975) for an initial period of 18 months. Its initial use was subject to the President's report to Congress that he

(1) has determined that such waiver will substantially promote the objectives of the Jackson-Vanik amendment, and

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<sup>15</sup> The functions of submitting to Congress (1) the semiannual full-compliance reports and (2) the annual waiver extension reports have been delegated to the Secretary of State by, respectively, Executive Orders 13313 (68 F. R. 46073; August 5, 2003), effective July 31, 2003; and 13346 (69 F.R. 41905; July 13, 2004), effective July 13, 2004. The President, however, has retained the authority for initial determinations of full compliance and issuance of initial waivers. In the relevant accompanying text, references to "President" should, where appropriate, be understood as meaning "Secretary of State."

(2) has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of the Jackson-Vanik amendment.

If the waiver authority and any waivers issued under it are to remain in force, they need to be extended for additional 12-month periods, expiring each year on July 3, by the President's recommendation of such extension to Congress. Such recommendation is subject to the same conditions as the initial grant of the waiver authority and its application to individual countries, and must be made at least 30 days before the prospective annual expiration of the authority (i.e., by June 3 of every year). It must be made in a document transmitted to both houses of Congress, in which the President must state his reasons for recommending the extension of the overall waiver authority. He also must determine for each country with respect to which a waiver already in effect is to be renewed that such renewal will substantially promote the objectives of the amendment, and state his reasons therefor. Like the renewals of "no-violation" determinations, annual extensions of the waiver authority and any waivers in force are subject to joint resolutions of disapproval.

## Congressional Role

Congressional role in the implementation of the Executive Jackson-Vanik authority is limited. Determinations, reports, and/or recommendations, required for the initial granting and/or periodic continuation of a country's eligibility, under the amendment, for the covered benefits, operate automatically and need not be approved by Congress.<sup>16</sup> They are, however — as stated earlier — subject to potential congressional disapproval.

The initial and the year-end report of "no violation" of (i.e., of full compliance with) the free-emigration criteria, or the annual mid-year recommendation to extend the waiver authority and any extant waiver, may be disapproved by joint resolution of Congress. Such a resolution can, technically, be initiated in either house but, in view of its being considered a revenue measure, must eventually be enacted as a House measure. Hence, disapproval of a "no-violation" determination or of a waiver renewal cannot take place if no relevant disapproval resolution has been introduced in the House, or if the House resolution has been defeated.

A joint resolution *disapproving the initial or the year-end **report and determination of "no violation"*** must be enacted under its specific fast-track procedure (Section 152 of the Trade Act; 19 U.S.C. 2192): the operative language of the resolution is prescribed by law; after its introduction and referral to the appropriate committee of jurisdiction (House Ways and Means; Senate Finance), the resolution must be reported within 30 days of session; if the committee does not

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<sup>16</sup> The key benefit conditioned on compliance with the Jackson-Vanik amendment — the restoration of nondiscriminatory tariff treatment in trade — however, is subject to initial Congressional approval (by joint resolution) of a Presidential proclamation of a bilateral trade agreement, among other provisions extending nondiscriminatory status to the country in question, and to subsequent triennial Presidential renewals of the agreement.

report it by that deadline, a motion to discharge it from further consideration of the resolution may be made under a specially provided procedure; the resolution is nonamendable on the floor and debate on it is limited; if the House and the Senate resolutions are not identical (e.g., apply to different countries), the final language is determined by conference; the resolution must be enacted (as a House measure<sup>17</sup>) within 90 days of session from the date on which the President's (actually, the Secretary of State's; see footnote 15) report has been delivered to Congress; if the resolution is vetoed by the President and the veto overridden, the resolution is treated as enacted on the day by which the veto was overridden either within the 90-day deadline or within 15 days of session after the veto message had been delivered to Congress, whichever is later. Both, the 90- and the 15-days-of-session period are computed "by excluding — (1) the days on which either house is not in session because of an adjournment of more than three days to a day certain or an adjournment of the Congress sine die, and (2) any Saturday and Sunday, not excluded under paragraph (1), when either house is not in session."<sup>18</sup>

A joint resolution *disapproving the mid-year **recommendation to extend the waiver authority*** (in its entirety or, more likely, with respect to individual countries), is considered and adopted by Congress under its own specific fast-track procedure, very similar to that for disapproving the "no violation" report, discussed above. This procedure, set out principally in Section 153 of the Trade Act (19 U.S.C. 2193), differs from the other one only in that it sets the deadline for the committee report on the resolution at 30 *calendar* (rather than session) days after its introduction; allows amendments to the resolution, but only with respect to the country or countries to which it applies; and, in view of this change, modifies slightly the Senate floor debate procedure. The resolution must be adopted and transmitted to the President within 60 calendar days from the date the waiver authority of the prior year would have expired without the recommendation for extension (i.e., by August 31). If the resolution is vetoed, the vote to override it must be taken within the 60-calendar-day period or within 15 days of session (computed as in the preceding paragraph) after the Congress has received the veto message, whichever is later.<sup>19</sup>

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<sup>17</sup> See also footnote 20.

<sup>18</sup> For statutory details of the procedure governing the consideration and enactment of a joint resolution disapproving a no-violation report, consult, in addition to the Jackson-Vanik amendment itself, Sections 152(a)(2)-(f), 154(b), and 407(c)(2) of the Trade Act (19 U.S.C. 2192(a)(2)-(f), 2194(b), and 2437(c)(2)).

<sup>19</sup> As in the case of the disapproval of the no-violation report (see previous footnote), much of the legislative procedure for the consideration of resolutions disapproving the extension of the waiver authority is not contained in the Jackson-Vanik amendment. The key statute is Section 153 of the Trade Act (19 U.S.C. 2193) in conjunction with its Section 152 (19 U.S.C. 2192). Both sections are considered an exercise of the rulemaking power of either house of Congress and may be changed by either house with respect to its own procedure in the same manner and to the same extent as any other rule (Section 151(a), Trade Act of 1974; 19 U.S.C. 2191(a)). — Detailed step-by-step procedure for the enactment of a joint resolution disapproving the annual extension of the waiver authority (focusing specifically on China, but applicable generally) is described in CRS Report 96-490, *Legislative Procedure for Disapproving the Renewal of China's Most-Favored-Nation Status*.

If a waiver disapproval resolution has been adopted in either house, the same house may not consider another resolution with respect to the same recommendation (other than a resolution adopted by and received from the other house).<sup>20</sup>

A joint resolution disapproving either the initial or the year-end report of “no violation” of the Jackson-Vanik criteria or the mid-year extension of the waiver authority takes effect on the 61st day after its enactment and as of that date terminates the determination of “no violation” or the country’s waiver. Any country’s waiver can also be terminated at any time by law or executive order, or, at the time of its annual renewal, by not being recommended for renewal.

The discontinuance of either type of a country’s compliance with the requirements of the Jackson-Vanik amendment, whether by presidential action or legislative disapproval, brings about the termination not only of the country’s nondiscriminatory tariff status but also of its access to the other benefits covered by the amendment. On the other hand, although the tariff and financial benefits involved both depend on compliance with the Jackson-Vanik amendment requirements, they are not interdependent: denial of the nondiscriminatory status — on whatever grounds — does not result in denial of financial benefits (and vice versa), as long as the Jackson-Vanik amendment requirements are being complied with. Consequently, a country subject to (and in compliance with) the requirements of the Jackson-Vanik amendment need not have had its nondiscriminatory (at present, referred to in U.S. statutes as “normal trade relations” (NTR); see footnote 4) status restored — a procedure requiring also a somewhat lengthy negotiation and conclusion of a bilateral trade agreement — if it is to regain access to the financial benefits, provided that the restrictions on such benefits contained in their specific authorizing legislation have been overcome (usually by a presidential waiver).

## Application and Implementation of the Amendment<sup>21</sup>

The provisions of the Jackson-Vanik amendment for temporary restoration of nondiscriminatory treatment (which continues to be denied under Section 401 of the Trade Act of 1974) are applicable but **have not been applied** with respect to two

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<sup>20</sup> Nevertheless, since a waiver disapproval resolution is considered a “revenue” measure and as such — as required by the Constitution — must originate in the House, and, moreover, the disapproval procedure itself precludes the referral of a Senate-passed Senate disapproval resolution to the House, the House could not vote on a Senate resolution after its own resolution had been defeated.

<sup>21</sup> For key actions in the implementation of the Jackson-Vanik amendment with respect to individual countries, and their underlying documents, see Table 1. *Application of the Jackson-Vanik Amendment by Country*, on p. 17. The table provides the date of entry into effect, the identification (statute, Presidential proclamation, executive order, Presidential determination, notice of the exchange of note of acceptance) and citation to the *Federal Register* of the implementing document, for the initial issuance of a waiver, or, where applicable, of the initial determination of “no violation” and of the termination of the application of the waiver or “no-violation” determination, for each country with regard to which any such action has been taken under the Jackson-Vanik amendment.

countries: Cuba and North Korea, the only two countries still listed in General note 3(b) of the HTSUS (see p. 5). Other than by specific legislation, either country can gain access to the economic benefits subject to the amendment only by complying with its freedom-of-emigration requirements.

With regard to countries which had their nondiscriminatory status restored under the Jackson-Vanik amendment in either of the two ways of complying with the Jackson-Vanik requirements, the **waiver provision** has been used more frequently and always as the initial way. It was applied for the first time on April 24, 1975 — still under the initial waiver authority and only a few months after its enactment — in connection with the extension of nondiscriminatory treatment to Romania. On March 17, 1978, Romania was followed by Hungary, and further initial waivers were issued for China (with Tibet) (October 23, 1979); Czechoslovakia (February 20, 1990); East Germany (August 15, 1990); Soviet Union (including the three Baltic republics: Estonia, Latvia, and Lithuania<sup>22</sup>) (December 29, 1990); Bulgaria (January 22, 1991); Mongolia (January 23, 1991); Romania (second waiver; see next paragraph) (August 17, 1991); Armenia (April 6, 1992); Belarus, Kyrgyzstan, Russia, Ukraine, and Uzbekistan (April 16, 1992); Albania, Azerbaijan, Georgia, Kazakhstan, and Moldova (June 3, 1992); Tajikistan, and Turkmenistan<sup>23</sup> (June 24, 1992); Vietnam (April 9, 1998); and Turkmenistan (August 8, 2003; second waiver; see footnote 28 and accompanying text). In each of these instances except East Germany (see footnote 33 and accompanying text), the issuance of a waiver has been followed by the temporary restoration of nondiscriminatory status, based on a trade agreement. In every case, the waiver opened up the possibility of access to other benefits involved (some of which are subject to autonomous restrictions, which can be — and have been — overcome by requisite presidential waiver or determination).

*Annual recommendations* of the extension of the Jackson-Vanik waiver authority and waivers for the gradually shrinking number of countries subject to it have been made regularly (except for Romania, see below; and Belarus, see footnote 26), and at present waivers apply only to Belarus, Turkmenistan, and Vietnam.

From 1988 through 1991, Romania was excluded from the group of countries for which waiver extensions were recommended because, in June 1988, it had formally renounced its nondiscriminatory status subject to the conditions of the Jackson-Vanik amendment. The renunciation and the expiration of the waiver (with effect on July 3, 1988) were formally acknowledged in Presidential Proclamation

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<sup>22</sup> Neither the Presidential determination to issue a waiver for the Soviet Union nor the executive order granting it specifically mentioned their applicability to the three Baltic republics, then still *de facto* part of the Soviet Union. Their inclusion in the Soviet Union's waiver was noted only in the President's letter notifying congressional leaders of his determination to issue the waiver, with the explanation that it in no way affected the long-standing U.S. policy of not recognizing their incorporation into the Soviet Union (see footnote 31). Under the same policy, their nondiscriminatory status had been suspended in 1951 individually and separately from the Soviet Union, with formal acquiescence by their individual diplomatic representations in Washington, which continued to be recognized by the United States.

<sup>23</sup> But see also footnote 30 and accompanying text on p. 13.

5836. Romania's waiver was restored on August 17, 1991, in preparation for the restoration of Romania's nondiscriminatory status under a new trade agreement with the United States, eventually concluded in April 1992.

Since the beginning of the program, *congressional action to disapprove the extension* of any country's waiver by means of a joint (prior to mid-1990, a one-house<sup>24</sup>) resolution has focused on only four countries. In 1975-1984 (94th-98th Congresses), 11 such resolutions were introduced in either house with respect to *Romania*; one each in 1982 and 1983 (97th and 98th Congresses), with respect to *China*; and in 1983 (98th Congress), one with respect to *Hungary*. None of these were approved in either house. Seven of them (among them all four Senate resolutions) died in committee; one was in effect defeated in the House, when a motion to discharge the Ways and Means Committee from its consideration was tabled; the remainder were either defeated or indefinitely postponed in floor votes. No disapproval resolutions were introduced in the 99th and 100th Congresses and in the first session of the 101st Congress (1985-1989). Since then, waiver disapproval resolutions have been introduced only with respect to China (until the restoration of its permanent NTR treatment in January 2002) and, until 2003, Vietnam.

Congressional action to disapprove the extension of *China's* waiver was triggered by the Tiananmen Square incident of June 4, 1989. Yet, although the incident occurred only a few days after the President recommended the waiver extension for all countries, including China (which would have made possible the adoption of a resolution disapproving China's waiver by the statutory deadline of August 31), no disapproval resolutions were introduced in 1989. Since then (and up to the statutory extension of permanent nondiscriminatory status to China in 2002), however, disapproval resolutions of waiver extensions for China have been introduced in every session: five were introduced in 1990 (101st Congress, 2nd session), of which one was passed by the House but did not come to vote in the Senate.<sup>25</sup> In both sessions of the 102nd Congress (1991-1992), disapproval resolutions were adopted by the House but indefinitely postponed or not acted upon by the Senate. The waiver disapproval resolutions introduced — only in the House — every mid-year after that were defeated on the House floor or died in the Ways and Means Committee, thus precluding any action by the Senate. Thus, all attempts at disapproving the annual renewal of China's waiver have been unsuccessful.

Similarly, no disapproval resolution of annual extensions of *Vietnam's* waiver, since it was initially issued in April 1998, has been adopted by either house. In the

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<sup>24</sup> The type of the disapproval resolution was changed — with some delay — by Section 132(a) of P.L. 101-382 of August 20, 1990, from simple to joint because of the June 23, 1983, decision of the U.S. Supreme Court in *U.S. Immigration and Naturalization Service v. Chadha*, which found legislative vetoes (e.g., disapproval, by concurrent or simple resolution, of presidential action taken under statutory authority) unconstitutional.

<sup>25</sup> In the 101st Congress and in most Congresses since (particularly in the 108<sup>th</sup> Congress), however, various bills have been introduced to terminate, restrict, or further condition China's nondiscriminatory tariff status, the principal benefit subject to the Jackson-Vanik requirements. Only two were enacted by Congress (in 1992) but vetoed by the President and the veto was upheld by the Senate.

Senate, the disapproval resolution was merely ordered reported unfavorably in mid-1998; in 1999, the motion to discharge it was defeated; and, in 2000, the measure died in committee. No disapproval resolutions have been introduced since in the Senate. In the House, the resolution was introduced every year through 2003, and, through 2002, reported adversely and defeated on the floor; it died in committee in 2003.

As has been clear ever since the beginning of congressional action to disapprove the annual extensions of the Jackson-Vanik waiver authority, a variety of issues other than freedom of emigration have been given as reasons for such disapprovals. This has been the case particularly with extensions of China's waiver: violation of human rights in general (restriction of religious freedom and ethnic minority rights, forced labor), unfair trade practices, U.S. bilateral trade deficits (focusing on the trade effects of reduced import-duty rates due to nondiscriminatory treatment), proliferation of nuclear and other weapons, China's manipulation of yuan-dollar exchange rate, and some others. In the case of Vietnam, opposition to the waiver extension has been based on Vietnam's unsatisfactory emigration policy, denial of human and religious rights, and lack of proper accounting for the POWs and MIAs.

At present, Jackson-Vanik *waivers are in effect* with respect to only three of the 12 countries still subject to the amendment, namely Belarus,<sup>26</sup> Turkmenistan,<sup>27</sup> and Vietnam. Most of the remaining countries subject to the Jackson-Vanik amendment (and to which initially its waiver provision applied) have been "upgraded" by having been determined as not in violation of the amendment's requirements, although they still remain subject to it. Others have been removed from its application entirely by enactment or other appropriate action whereby permanent NTR treatment has been restored to them (see p. 13).

Consequently, there remain at present only two countries (Cuba and North Korea) to which the *NTR treatment is being denied* due to noncompliance with the Jackson-Vanik amendment.

In 17 instances, **determinations of "no violation"** of the freedom-of-emigration requirements have been made by the President<sup>28</sup> for NME countries to which nondiscriminatory status and other covered benefits had already been restored under the waiver provision.<sup>29</sup> While this change of Jackson-Vanik amendment status in no way changes a country's nondiscriminatory treatment or its access to other covered benefits, it does suggest a symbolic U.S. approval of its emigration policy.

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<sup>26</sup> Jackson-Vanik waiver for Belarus, first issued in 1992 (see p. 10), but — apparently through an oversight — not renewed in the regular way in mid-2001, was reissued on July 2, 2001.

<sup>27</sup> See footnote 30 and accompanying text.

<sup>28</sup> See also footnote 15 on p. 6.

<sup>29</sup> There is, however, in the relevant documents no specific reference to any of these countries as being NME countries; action under the Jackson-Vanik amendment is applied to them individually by name.

It also has in several instances been the stepping stone to permanent restoration of the covered benefits.

Such determinations were made for Hungary on October 26, 1989; Czechoslovakia on October 16, 1991; Bulgaria on June 3, 1993; Russia on September 24, 1994; Romania on May 19, 1995; Mongolia on September 4, 1996; Armenia, Azerbaijan, Georgia, Moldova, and Ukraine on June 3, 1997; and Albania, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan on December 5, 1997. Because of subsequent terminations of the application of the Jackson-Vanik amendment to several countries through extensions of permanent NTR treatment (see the second paragraph below) and the intervening (August 8, 2003) “downgrading” of Turkmenistan’s “no-violation” status to “waiver status,”<sup>30</sup> the “no violation” determinations (most recently renewed on July 7, 2005) apply at present to seven countries: Azerbaijan, Kazakhstan, Moldova, Russia, Tajikistan, Ukraine, and Uzbekistan.

No congressional attempts have been made in the past to disapprove by joint resolution any initial extension or later renewal of the “no-violation” determination.

The application of Title IV of the Trade Act of 1974, including the **Jackson-Vanik amendment**, has been **terminated** with respect to eight countries that had already been determined *not in violation* at the time when permanent nondiscriminatory status was granted to them by specific law. The countries, the relevant legislation and the date of its entry into force are: Czechoslovakia (on January 1, 1993, split into the Czech Republic, and Slovakia) and Hungary (Section 2, P.L. 102-182, with effect on April 14, 1992); Bulgaria (P.L. 104-162, October 1, 1996); Romania (P.L. 104-171, November 12, 1996), Mongolia (Section 2424, P.L. 106-36; July 1, 1999), Albania and Kyrgyzstan (Sections 301 and 302, P.L. 106-200; June 29, 2000), Georgia (Section 3002, P.L. 106-476, December 29, 2000), and Armenia (Section 2001, P.L. 108-429, January 7, 2005).

In several instances, the application of Title IV (including the Jackson-Vanik amendment) was terminated with respect to countries that were at the time still *subject to the waiver provision*. This occurred with respect to the three Baltic republics (Estonia, Latvia, and Lithuania), whose waiver had been included, but was not specifically mentioned in the Soviet Union’s waiver,<sup>31</sup> after their individual declarations of independence from the Soviet Union during the course of 1991, by

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<sup>30</sup> Presidential letters notifying the Speaker of the House of Representatives and the President of the Senate (August 8, 2003; H.Doc. 108-111) of Turkmenistan’s noncompliance with the “no-violation” standard; and Executive order 13314, August 8, 2003 (68 F.R. 48249), issuing a new Jackson-Vanik waiver for Turkmenistan.

<sup>31</sup> The inclusion of the three Baltic countries in the Soviet waiver, however, was notified to Congress in the President’s letter of December 29, 1990, to Congressional leaders on trade with the Soviet Union (*Weekly Compilation of Presidential Documents*, v. 27, no. 1, January 7, 1991, p. 2). — This separate treatment of the three Baltic republics was due to the fact that the United States had not recognized their incorporation into the Soviet Union after World War II and had maintained their diplomatic representations in Washington.

legislation directly granting them permanent nondiscriminatory status, with effect on December 19, 1991.<sup>32</sup>

In the case of China, the application of Title IV (including the Jackson-Vanik provision) was terminated and permanent NTR treatment extended, effective January 1, 2002, by Presidential proclamation 7516 (67 F.R. 479), under the authority of Sections 101 and 102 of P.L. 106-286 (Normal Trade Relations for the People's Republic of China; October 10, 2000). At the time, China's NTR status was still subject to annual renewals of the Jackson-Vanik waiver authority.

Application of Title IV to East Germany — including the waiver of August 15, 1990 — was *rendered inoperative* upon the unification of East and West Germany as of October 3, 1990.<sup>33</sup> The measure was put into effect by the Department of the Treasury (Customs Bulletin and Decisions, v. 24, no. 45/46, November 14, 1990, p. 4).

On a final note: although Cambodia and Laos (or at least their communist-controlled parts; see footnote 10) were subject to the 1951 suspension of the most-favored-nation status and its restoration arguably could have been subject to the Jackson-Vanik amendment, they had such status *restored directly and unconditionally*, without prior recourse to the Title IV procedure and with no reference to it in their implementing laws — respectively, P.L. 104-203, and Section 2005, P.L. 108-429 — based on the view of the congressional committees of jurisdiction that Title IV of the Trade Act of 1974 applied to neither country.

## Practical Consequences

The functional relevance of the Jackson-Vanik amendment has been greatly reduced since its enactment in January 1975, particularly after the dissolution of the Soviet Union in 1991 and subsequent political and economic democratization of its earlier constituent republics. This reduction has been due in part to the end of the Cold War (a remnant of which the provision still is); partly through substantive improvement of emigration policies of most of the countries still remaining within its purview, resulting in an increase in the number of those that have been found not in violation of its freedom-of-emigration criteria; and in part due to a significant reduction of the number of countries to which it still applies, through the granting of permanent NTR treatment by law.

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<sup>32</sup> Title I, P.L. 102-182; December 4, 1991.

<sup>33</sup> Shortly after the issuance of the waiver for East Germany, the President was authorized by Section 142 of the Customs and Trade Act of 1990 (P.L. 101-382; August 20, 1990) to lower by proclamation the duty rates on articles imported from East Germany between September 30, 1990, and the date of unification of Germany to any rates not lower than the MFN rates, hence, in effect, potentially extending to East Germany permanent MFN status. German unification shortly before the effective date of the President's authority under P.L. 101-382 and the administrative extension of permanent MFN status, made a Presidential proclamation unnecessary.

The conditional NTR treatment extended under the amendment to the countries that it covers is functionally no different from permanent NTR treatment. Despite its statutory conditionality and temporary nature, in present objective circumstances, it constitutes no serious obstacle to U.S. commercial relations with countries to which it still applies. Such NTR treatment is also hardly likely to be terminated with respect to any country, in view of the present full or substantial compliance with the freedom-of-emigration requirements of the amendment. On the other hand, the amendment itself is not likely to be repealed in the short term, since Congress has thus far indicated its intent to maintain it in force for the purpose of retaining a certain degree of control over trade with the affected countries. To some extent, this intent has been suggested in practice by repeated — although gradually less frequent and in the end unsuccessful — legislative attempts to disapprove the annual Presidential renewals of Jackson-Vanik waivers for certain countries.

## Possible Congressional Action

Prospective congressional activity relative to the Jackson-Vanik amendment might take any of the possible forms of action mentioned below, some of which have already been taken, or at least attempted, in the past:

(1) Since it can be expected that the Executive action to renew annually the overall waiver authority and any of the existing waivers, and semiannually the “no violation” determinations, as well as the issuance of possible initial “no violation” determinations, will continue in the future, the Congress may have to consider the adoption of one or more *joint resolutions disapproving any such action* overall or with regard to any individual country still subject to the Jackson-Vanik amendment (cf. pp. 7-8). The enactment and implementation of such a resolution would ultimately result in the suspension of the NTR treatment (and other benefits covered by the amendment) with respect to the country or countries to which the resolution would apply.

However, in view of the present circumstances mentioned in the preceding section and recent experience, the adoption of such a disapproval resolution — if introduced at all — does not appear likely.

(2) With regard to the applicability of the Jackson-Vanik amendment as such, legislation could be considered *terminating the application of the amendment* to individual countries.

*A caveat on this subject:* Occasionally in the past, it has been suggested that application of the Jackson-Vanik amendment to an individual NME country could be terminated simply by declaring the country in question a market economy. This mechanism could not serve its intended purpose because, although the amendment applies to NME countries, the initial suspension of nondiscriminatory (MFN) status under the 1951 law (cf. footnote 1), which has been continued in force by Section 401 of the Trade Act of 1974 (cf. footnote 3), did not apply to NME countries as a group but rather individually to each of the affected countries and/or areas. Hence,

terminating the application of the amendment with respect to a country has to be effected on a country-by-country basis.

Action focusing on the termination exclusively of the application of the amendment to individual countries is technically possible, but has to take into consideration the specific aspects of the interconnectedness of the amendment with other closely related sections of Title IV of the Trade Act of 1974.

Because of the intrinsic operative connection of the Jackson-Vanik amendment with the other provisions of Title IV (with the exception of Section 406, but unavoidably with Sections 401<sup>34</sup> and 409, and possibly 403<sup>35</sup>), such termination would also have to apply to those provisions.

Such terminating action could — technically — be the subject of a free-standing measure and apply exclusively to the amendment and related statutes (which action would presumably automatically restore permanent NTR treatment to the country in question<sup>36</sup>). Since, however, the implementation of the J-V amendment is not a goal of its own but is only subsidiary to — if functionally unavoidably necessary for — the temporary and conditional restoration of the NTR treatment, its termination has, in past practice, consistently been an adjunct to and an integral part of broader legislation designed to restore permanent NTR treatment to the affected countries, and has encompassed the entire Title IV.

(3) The most radical legislative action regarding the Jackson-Vanik amendment that Congress might undertake is the *repeal of the provision* itself. Such repeal has been informally advocated in the past (including by the principal cosponsor of the amendment, former Representative Charles A. Vanik), but no specific legislation toward that end has as yet been introduced.

In action to repeal the Jackson-Vanik amendment altogether, the comments and caveats mentioned in the preceding section regarding the termination of the application of the Jackson-Vanik amendment to individual countries would need to be taken into consideration, most likely resulting in the repeal of the entire Title IV.

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<sup>34</sup> See page 4.

<sup>35</sup> See footnote 14 for Sections 409 and 403..

<sup>36</sup> If not in specific terms, presumably by applying to the country permanent NTR (nondiscriminatory) treatment provided as a key element of the trade policy matter applicable generally to all U.S. trading partners under Section 126 of the Trade Act of 1974 (see footnote 3).

**Table 1. Country Application of the Jackson-Vanik Amendment**

For an explanation of the entries in this table, please, see footnote 21 on p. 9.

Country	Waiver	“No Violation”	Termination <sup>a</sup>
Albania	June 3, 1992; EO 12809, 57 FR 23925	Dec. 5, 1997; PD 98-7, FR 66253	June 29, 2000; Sec. 301, P.L. 106- 200; PP 7326, 65 FR 41547
Armenia	Apr. 6, 1992; EO 12798, 57 FR 12175	June 3, 1997; PD 97-27, 62 FR 32017	Jan. 7, 2005; Sec. 2001, P.L. 108-429, PP 7860, 70 FR 2321
Azerbaijan	June 3, 1992; EO 12809, 57 FR 23925	June 3, 1997; PD 97-27, 62 FR 32017	
Belarus (1)	Apr. 16, 1992; EO 12802, 57 FR 14321	b	
Belarus (2)	July 2, 2001; EO 13220, 66 FR 35527		
Bulgaria	Jan. 22, 1991; EO 12745, 56 FR 2835	June 3, 1993; PD 93-26, 58 FR 33007	Oct. 1, 1996; Sec. 2, P.L. 104- 162, PP 6922, 61 FR 51205
China	Oct. 23, 1979; EO 12167, 44 FR 61167	c	Jan. 1, 2002; Sec. 101, P.L. 106- 286, PP 7516, 67 FR 479
Czechoslovakia <sup>d</sup>	Feb. 20, 1990; EO 12702, 55 FR 6132	Oct. 16, 1991; PD 92-3, 56 FR 55203	Apr. 14, 1992; Sec. 2, P.L. 102- 182, PP 6419, 57 FR 12865
East Germany	Aug. 15, 1990; EO 12726, 55 FR 33637		e
Estonia	Dec. 29, 1990; EO 12740, 56 FR 355	f	Dec. 19, 1991; Sec. 103, P.L. 102- 182
Georgia	June 3, 1992; EO 12809, 57 FR 23925	June 3, 1997; PD 97-27, 62 FR 32017	Dec. 29, 2000; Sec. 3002, P.L. 106-476, PP 7389, 66 FR 703
Hungary	Apr. 7, 1978; EO 12051, 43 FR 15131	Oct. 26, 1989; PD 90-3, 54 FR 56591	Apr. 14, 1992; Sec. 2, P.L. 102- 182, PP 6419, 57 FR 12865

Country	Waiver	“No Violation”	Termination <sup>a</sup>
Kazakhstan	June 3, 1992; EO 12809, 57 FR 23925	Dec. 5, 1997; PD 98-7, 62 FR 66253	
Kyrgyzstan	Apr. 16, 1992; EO 12802, 57 FR 14321	Dec. 5, 1997; PD 98-7, 62 FR 66253	June 29, 2000; Sec. 302, P.L. 106- 200, PP 7326, 65 FR 41547
Latvia	Dec. 29, 1990; EO 12740, 56 FR 355	f	Dec. 19, 1991; Sec. 103, P.L. 102-182
Lithuania	Dec. 29, 1990; EO 12740, 56 FR 355	f	Dec. 19, 1991; Sec. 103, P.L. 102-182
Moldova	June 3, 1992; EO 12809, 57 FR 23925	June 3, 1997; PD 97-27, 62 FR 32017	
Mongolia	Jan. 23, 1991; EO 12746, 56 FR 2837	Sep. 4, 1996; PD 96-51, 61 FR 48603	July 1, 1999; Sec. 2424, P.L. 106-36, PP 7207, 64 FR 36549
Romania (1)	Apr. 24, 1975; EO 11854, 40 FR 18391	g	
Romania (2)	Aug. 17, 1991; PD 91-43, 56 FR 43861	May 19, 1995; PD 95-22, 60 FR 29463	Nov. 12, 1996; Sec. 2, P.L. 104- 171, PP 6951, 61 FR 58129
Russia	Apr. 16, 1992; EO 12802, 57 FR 14321	Sep. 21, 1994; PD 94-51, 59 FR 49783	
Tajikistan	June 24, 1992; EO 12811, 57 FR 28585	Dec. 5, 1997; PD 98-7, 62 FR 66253	
Turkmenistan (1)	June 24, 1992; EO 12811, 57 FR 28585	Dec. 5, 1997; PD 98-7, 62 FR 66253 <sup>h</sup>	
Turkmenistan (2)	Aug. 8, 2003; EO 13314, 68 FR 48249		
Ukraine	Apr. 16, 1992; EO 12802, 57 FR 14321	June 3, 1997; PD 97-27, 62 FR 32017	
Uzbekistan	Apr. 16, 1992;	Dec. 5, 1997;	

Country	Waiver	“No Violation”	Termination <sup>a</sup>
	EO 12802, 57 FR 14321	PD 98-7, 62 FR 66253	
Vietnam	Apr. 7, 1998; EO 13079, 63 FR 17309		

**Notes:**

- a. Termination of the application of Title IV of the Trade Act of 1974 (including the Jackson-Vanik amendment) is specifically mentioned in the implementing legislation (which extends permanent normal trade relations to the country in question).
- b. Due to an oversight, waiver was not renewed in mid-2001 and had to be reissued (see Belarus (2)).
- c. No “no violation” determination made.
- d. As of January 1, 1993 (i.e., already after the extension of permanent NTR status), Czechoslovakia separated into Czech Republic and Slovakia (cf. PP 6544, 58 FR 19548).
- e. Application of Jackson-Vanik amendment waiver terminated automatically through extension of permanent NTR status upon German reunification effective October 3, 1990 (*Customs Bulletin and Decisions*, vol. 24. Nos. 45/46, Nov. 14, 1990, p. 4). (See also footnote 30.)
- f. Waiver originally issued for the Soviet Union, without specific mention of Baltic countries; the latter application was explained by the President’s letter to congressional leaders on trade with the Soviet Union (*Weekly Compilation of Presidential Documents*, v. 27, no. 1, Jan. 7, 1991, p. 2).
- g. Waiver renounced by Romania and allowed to expire July 3, 1988 (PP 5836, 53 FR 24921).
- h. “No violation” status suspended and reverted to “waiver” status (see Turkmenistan (2)).

**Abbreviations:**

EO - Executive Order  
FR - Federal Register  
PD - Presidential determination  
PP - Presidential proclamation  
XN - Exchange of note of acceptance of the trade agreement